

Representative Roger E. Barrus proposes the following substitute bill:

**COUNTY OPTION SALES AND USE TAX FOR
AGRICULTURAL LAND AND OPEN LAND ACT**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Craig W. Buttars

LONG TITLE

General Description:

This bill modifies the Revenue and Taxation title to enact the County Option Sales and Use Tax for Agricultural Land and Open Land Act.

Highlighted Provisions:

This bill:

- ▶ enacts the County Option Sales and Use Tax for Agricultural Land and Open Land Act;

- ▶ provides definitions;

- ▶ provides procedures and requirements for the imposition, enactment, and repeal of the tax;

- ▶ provides procedures and requirements for the administration, collection, and enforcement of the tax by the State Tax Commission and provides that the State Tax Commission may collect an administrative fee for administering, collecting, and enforcing the tax;

- ▶ provides procedures and requirements for the allocation, distribution, and expenditure of tax revenues;

- ▶ requires a county legislative body to establish an advisory board to advise the county legislative body on the expenditure of tax revenues and provides procedures



26 and requirements for establishing an advisory board;

27 ▶ provides that if tax revenues are not used for certain purposes within a three
28 consecutive year period, the county legislative body shall repeal the tax;

29 ▶ provides that the State Tax Commission shall adjust a county's certified tax rate to
30 include any unexpended sales and use tax revenues as ad valorem property tax
31 revenues;

32 ▶ requires the State Tax Commission to make administrative rules to provide
33 procedures for adjusting a county's certified tax rate; and

34 ▶ addresses a seller's or certified service provider's reliance on State Tax Commission
35 information or certain systems.

36 **Monies Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **59-2-924**, as last amended by Chapter 122, Laws of Utah 2003

43 ENACTS:

44 **59-12-1601**, Utah Code Annotated 1953

45 **59-12-1602**, Utah Code Annotated 1953

46 **59-12-1603**, Utah Code Annotated 1953

47 **59-12-1604**, Utah Code Annotated 1953

48 **59-12-1605**, Utah Code Annotated 1953

49 **59-12-1606**, Utah Code Annotated 1953

50 **59-12-1607**, Utah Code Annotated 1953

51 **59-12-1608**, Utah Code Annotated 1953



53 *Be it enacted by the Legislature of the state of Utah:*

54 Section 1. Section **59-2-924** is amended to read:

55 **59-2-924. Report of valuation of property to county auditor and commission --**

56 **Transmittal by auditor to governing bodies -- Certified tax rate -- Rulemaking authority**

57 -- Adoption of tentative budget.

58 (1) (a) Before June 1 of each year, the county assessor of each county shall deliver to
59 the county auditor and the commission the following statements:

60 (i) a statement containing the aggregate valuation of all taxable property in each taxing
61 entity; and

62 (ii) a statement containing the taxable value of any additional personal property
63 estimated by the county assessor to be subject to taxation in the current year.

64 (b) The county auditor shall, on or before June 8, transmit to the governing body of
65 each taxing entity:

66 (i) the statements described in Subsections (1)(a)(i) and (ii);

67 (ii) an estimate of the revenue from personal property;

68 (iii) the certified tax rate; and

69 (iv) all forms necessary to submit a tax levy request.

70 (2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad
71 valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the
72 prior year.

73 (ii) For purposes of this Subsection (2), "ad valorem property tax revenues" do not
74 include:

75 (A) collections from redemptions;

76 (B) interest; and

77 (C) penalties.

78 (iii) Except as provided in Subsection (2)(a)(v), the certified tax rate shall be calculated
79 by dividing the ad valorem property tax revenues budgeted for the prior year by the taxing
80 entity by the taxable value established in accordance with Section 59-2-913.

81 (iv) (A) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
82 Act, the commission shall make rules determining the calculation of ad valorem property tax
83 revenues budgeted by a taxing entity.

84 (B) For purposes of Subsection (2)(a)(iv)(A), ad valorem property tax revenues
85 budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax
86 revenues are calculated for purposes of Section 59-2-913.

87 (v) The certified tax rates for the taxing entities described in this Subsection (2)(a)(v)

88 shall be calculated as follows:

89 (A) except as provided in Subsection (2)(a)(v)(B), for new taxing entities the certified
90 tax rate is zero;

91 (B) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

92 (I) in a county of the first, second, or third class, the levy imposed for municipal-type
93 services under Sections 17-34-1 and 17-36-9; and

94 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
95 purposes and such other levies imposed solely for the municipal-type services identified in
96 Section 17-34-1 and Subsection 17-36-3(22);

97 (C) for debt service voted on by the public, the certified tax rate shall be the actual levy
98 imposed by that section, except that the certified tax rates for the following levies shall
99 be calculated in accordance with Section 59-2-913 and this section:

100 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,
101 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

102 (II) levies to pay for the costs of state legislative mandates or judicial or administrative
103 orders under Section 59-2-906.3.

104 (vi) (A) A judgment levy imposed under Section 59-2-1328 or Section 59-2-1330 shall
105 be established at that rate which is sufficient to generate only the revenue required to satisfy
106 one or more eligible judgments, as defined in Section 59-2-102.

107 (B) The ad valorem property tax revenue generated by the judgment levy shall not be
108 considered in establishing the taxing entity's aggregate certified tax rate.

109 (b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use
110 the taxable value of property on the assessment roll.

111 (ii) For purposes of Subsection (2)(b)(i), the taxable value of property on the
112 assessment roll does not include new growth as defined in Subsection (2)(b)(iii).

113 (iii) "New growth" means:

114 (A) the difference between the increase in taxable value of the taxing entity from the
115 previous calendar year to the current year; minus

116 (B) the amount of an increase in taxable value described in Subsection (2)(b)(iv).

117 (iv) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:

118 (A) the amount of increase to locally assessed real property taxable values resulting

119 from factoring, reappraisal, or any other adjustments; or

120 (B) the amount of an increase in the taxable value of property assessed by the
121 commission under Section 59-2-201 resulting from a change in the method of apportioning the
122 taxable value prescribed by:

123 (I) the Legislature;

124 (II) a court;

125 (III) the commission in an administrative rule; or

126 (IV) the commission in an administrative order.

127 (c) Beginning January 1, 1997, if a taxing entity receives increased revenues from
128 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as
129 a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option
130 Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased
131 revenues.

132 (d) (i) Beginning July 1, 1997, if a county has imposed a sales and use tax under
133 Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

134 (A) decreased on a one-time basis by the amount of the estimated sales and use tax
135 revenue to be distributed to the county under Subsection 59-12-1102(3); and

136 (B) increased by the amount necessary to offset the county's reduction in revenue from
137 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as
138 a result of the decrease in the certified tax rate under Subsection (2)(d)(i)(A).

139 (ii) The commission shall determine estimates of sales and use tax distributions for
140 purposes of Subsection (2)(d)(i).

141 (e) Beginning January 1, 1998, if a municipality has imposed an additional resort
142 communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be
143 decreased on a one-time basis by the amount necessary to offset the first 12 months of
144 estimated revenue from the additional resort communities sales and use tax imposed under
145 Section 59-12-402.

146 (f) For the calendar year beginning on January 1, 1999, and ending on December 31,
147 1999, a taxing entity's certified tax rate shall be adjusted by the amount necessary to offset the
148 adjustment in revenues from uniform fees on tangible personal property under Section
149 59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property under

150 Section 59-2-405.1 enacted by the Legislature during the 1998 Annual General Session.

151 (g) For purposes of Subsections (2)(h) through (j):

152 (i) "1998 actual collections" means the amount of revenues a taxing entity actually
153 collected for the calendar year beginning on January 1, 1998, under Section 59-2-405 for:

154 (A) motor vehicles required to be registered with the state that weigh 12,000 pounds or
155 less; and

156 (B) state-assessed commercial vehicles required to be registered with the state that
157 weigh 12,000 pounds or less.

158 (ii) "1999 actual collections" means the amount of revenues a taxing entity actually
159 collected for the calendar year beginning on January 1, 1999, under Section 59-2-405.1.

160 (h) For the calendar year beginning on January 1, 2000, the commission shall make the
161 following adjustments:

162 (i) the commission shall make the adjustment described in Subsection (2)(i)(i) if, for
163 the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were
164 greater than the sum of:

165 (A) the taxing entity's 1999 actual collections; and

166 (B) any adjustments the commission made under Subsection (2)(f);

167 (ii) the commission shall make the adjustment described in Subsection (2)(i)(ii) if, for
168 the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were
169 greater than the taxing entity's 1999 actual collections, but the taxing entity's 1998 actual
170 collections were less than the sum of:

171 (A) the taxing entity's 1999 actual collections; and

172 (B) any adjustments the commission made under Subsection (2)(f); and

173 (iii) the commission shall make the adjustment described in Subsection (2)(i)(iii) if, for
174 the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were
175 less than the taxing entity's 1999 actual collections.

176 (i) (i) For purposes of Subsection (2)(h)(i), the commission shall increase a taxing
177 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
178 Section 59-2-906.1 by the amount necessary to offset the difference between:

179 (A) the taxing entity's 1998 actual collections; and

180 (B) the sum of:

181 (I) the taxing entity's 1999 actual collections; and
182 (II) any adjustments the commission made under Subsection (2)(f).
183 (ii) For purposes of Subsection (2)(h)(ii), the commission shall decrease a taxing
184 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
185 Section 59-2-906.1 by the amount necessary to offset the difference between:
186 (A) the sum of:
187 (I) the taxing entity's 1999 actual collections; and
188 (II) any adjustments the commission made under Subsection (2)(f); and
189 (B) the taxing entity's 1998 actual collections.
190 (iii) For purposes of Subsection (2)(h)(iii), the commission shall decrease a taxing
191 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
192 Section 59-2-906.1 by the amount of any adjustments the commission made under Subsection
193 (2)(f).
194 (j) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
195 purposes of Subsections (2)(f) through (i), the commission may make rules establishing the
196 method for determining a taxing entity's 1998 actual collections and 1999 actual collections.
197 (k) (i) (A) For fiscal year 2000, the certified tax rate of each county required under
198 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the
199 unincorporated area of the county shall be decreased by the amount necessary to reduce
200 revenues in that fiscal year by an amount equal to the difference between the amount the county
201 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services
202 countywide and the amount the county spent during fiscal year 2000 for those services,
203 excluding amounts spent from a municipal services fund for those services.
204 (B) For fiscal year 2001, the certified tax rate of each county to which Subsection
205 (2)(k)(i)(A) applies shall be decreased by the amount necessary to reduce revenues in that fiscal
206 year by the amount that the county spent during fiscal year 2000 for advanced life support and
207 paramedic services countywide, excluding amounts spent from a municipal services fund for
208 those services.
209 (ii) (A) A city or town located within a county of the first class to which Subsection
210 (2)(k)(i) applies may increase its certified tax rate by the amount necessary to generate within
211 the city or town the same amount of revenues as the county would collect from that city or

212 town if the decrease under Subsection (2)(k)(i) did not occur.

213 (B) An increase under Subsection (2)(k)(ii)(A), whether occurring in a single fiscal
214 year or spread over multiple fiscal years, is not subject to the notice and hearing requirements
215 of Sections 59-2-918 and 59-2-919.

216 (l) (i) The certified tax rate of each county required under Subsection 17-34-1(4)(b) to
217 provide detective investigative services to the unincorporated area of the county shall be
218 decreased:

219 (A) in fiscal year 2001 by the amount necessary to reduce revenues in that fiscal year
220 by at least \$4,400,000; and

221 (B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year
222 by an amount equal to the difference between \$9,258,412 and the amount of the reduction in
223 revenues under Subsection (2)(l)(i)(A).

224 (ii) (A) (I) Beginning with municipal fiscal year 2002, a city or town located within a
225 county to which Subsection (2)(l)(i) applies may increase its certified tax rate to generate
226 within the city or town the same amount of revenue as the county would have collected during
227 county fiscal year 2001 from within the city or town except for Subsection (2)(l)(i)(A).

228 (II) Beginning with municipal fiscal year 2003, a city or town located within a county
229 to which Subsection (2)(l)(i) applies may increase its certified tax rate to generate within the
230 city or town the same amount of revenue as the county would have collected during county
231 fiscal year 2002 from within the city or town except for Subsection (2)(l)(i)(B).

232 (B) (I) Except as provided in Subsection (2)(l)(ii)(B)(II), an increase in the city or
233 town's certified tax rate under Subsection (2)(l)(ii)(A), whether occurring in a single fiscal year
234 or spread over multiple fiscal years, is subject to the notice and hearing requirements of
235 Sections 59-2-918 and 59-2-919.

236 (II) For an increase under this Subsection (2)(l)(ii) that generates revenue that does not
237 exceed the same amount of revenue as the county would have collected except for Subsection
238 (2)(l)(i), the requirements of Sections 59-2-918 and 59-2-919 do not apply if the city or town:

239 (Aa) publishes a notice that meets the size, type, placement, and frequency
240 requirements of Section 59-2-919, reflects that the increase is a shift of a tax from one imposed
241 by the county to one imposed by the city or town, and explains how the revenues from the tax
242 increase will be used; and

243 (Bb) holds a public hearing on the tax shift that may be held in conjunction with the
244 city or town's regular budget hearing.

245 (m) (i) This Subsection (2)(m) applies to each county that:

246 (A) establishes a countywide special service district under Title 17A, Chapter 2, Part
247 13, Utah Special Service District Act, to provide jail service, as provided in Subsection
248 17A-2-1304(1)(a)(x); and

249 (B) levies a property tax on behalf of the special service district under Section
250 17A-2-1322.

251 (ii) (A) The certified tax rate of each county to which this Subsection (2)(m) applies
252 shall be decreased by the amount necessary to reduce county revenues by the same amount of
253 revenues that will be generated by the property tax imposed on behalf of the special service
254 district.

255 (B) Each decrease under Subsection (2)(m)(ii)(A) shall occur contemporaneously with
256 the levy on behalf of the special service district under Section 17A-2-1322.

257 (n) (i) As used in this Subsection (2)(n):

258 (A) "Annexing county" means a county whose unincorporated area is included within a
259 fire district by annexation.

260 (B) "Annexing municipality" means a municipality whose area is included within a fire
261 district by annexation.

262 (C) "Equalized fire protection tax rate" means the tax rate that results from:

263 (I) calculating, for each participating county and each participating municipality, the
264 property tax revenue necessary to cover all of the costs associated with providing fire
265 protection, paramedic, and emergency services:

266 (Aa) for a participating county, in the unincorporated area of the county; and

267 (Bb) for a participating municipality, in the municipality; and

268 (II) adding all the amounts calculated under Subsection (2)(n)(i)(C)(I) for all
269 participating counties and all participating municipalities and then dividing that sum by the
270 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

271 (Aa) for participating counties, in the unincorporated area of all participating counties;
272 and

273 (Bb) for participating municipalities, in all the participating municipalities.

274 (D) "Fire district" means a county service area under Title 17A, Chapter 2, Part 4,
275 County Service Area Act, in the creation of which an election was not required under
276 Subsection 17B-2-214(3)(c).

277 (E) "Fire protection tax rate" means:

278 (I) for an annexing county, the property tax rate that, when applied to taxable property
279 in the unincorporated area of the county, generates enough property tax revenue to cover all the
280 costs associated with providing fire protection, paramedic, and emergency services in the
281 unincorporated area of the county; and

282 (II) for an annexing municipality, the property tax rate that generates enough property
283 tax revenue in the municipality to cover all the costs associated with providing fire protection,
284 paramedic, and emergency services in the municipality.

285 (F) "Participating county" means a county whose unincorporated area is included
286 within a fire district at the time of the creation of the fire district.

287 (G) "Participating municipality" means a municipality whose area is included within a
288 fire district at the time of the creation of the fire district.

289 (ii) In the first year following creation of a fire district, the certified tax rate of each
290 participating county and each participating municipality shall be decreased by the amount of
291 the equalized fire protection tax rate.

292 (iii) In the first year following annexation to a fire district, the certified tax rate of each
293 annexing county and each annexing municipality shall be decreased by the fire protection tax
294 rate.

295 (iv) Each tax levied under this section by a fire district shall be considered to be levied
296 by:

297 (A) each participating county and each annexing county for purposes of the county's
298 tax limitation under Section 59-2-908; and

299 (B) each participating municipality and each annexing municipality for purposes of the
300 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a
301 city.

302 (o) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
303 commission shall make rules to provide procedures for adjusting a county's certified tax rate as
304 required by Section 59-12-1607.

305 (3) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.

306 (b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county
307 auditor of:

308 (i) its intent to exceed the certified tax rate; and

309 (ii) the amount by which it proposes to exceed the certified tax rate.

310 (c) The county auditor shall notify all property owners of any intent to exceed the
311 certified tax rate in accordance with Subsection 59-2-919(2).

312 (4) (a) The taxable value for the base year under Subsection 17B-4-102(4) shall be
313 reduced for any year to the extent necessary to provide a redevelopment agency established
314 under Title 17B, Chapter 4, Redevelopment Agencies Act, with approximately the same
315 amount of money the agency would have received without a reduction in the county's certified
316 tax rate if:

317 (i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or
318 (2)(d)(i);

319 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the
320 previous year; and

321 (iii) the decrease results in a reduction of the amount to be paid to the agency under
322 Section 17B-4-1003 or 17B-4-1004.

323 (b) The base taxable value under Subsection 17B-4-102(4) shall be increased in any
324 year to the extent necessary to provide a redevelopment agency with approximately the same
325 amount of money as the agency would have received without an increase in the certified tax
326 rate that year if:

327 (i) in that year the base taxable value under Subsection 17B-4-102(4) is reduced due to
328 a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i); and

329 (ii) The certified tax rate of a city, school district, or special district increases
330 independent of the adjustment to the taxable value of the base year.

331 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or
332 (2)(d)(i), the amount of money allocated and, when collected, paid each year to a
333 redevelopment agency established under Title 17B, Chapter 4, Redevelopment Agencies Act,
334 for the payment of bonds or other contract indebtedness, but not for administrative costs, may
335 not be less than that amount would have been without a decrease in the certified tax rate under

336 Subsection (2)(c) or (2)(d)(i).

337 Section 2. Section **59-12-1601** is enacted to read:

338 **Part 16. County Option Sales and Use Tax for Agricultural Land and Open Land Act**

339 **59-12-1601. Title.**

340 This part is known as the "County Option Sales and Use Tax for Agricultural Land and
341 Open Land Act."

342 Section 3. Section **59-12-1602** is enacted to read:

343 **59-12-1602. Definitions.**

344 As used in this part:

345 (1) "Agricultural land" has the same meaning as "land in agricultural use" under
346 Section 59-2-502.

347 (2) "Annexation" means an annexation to a county under Title 17, Chapter 2,
348 Annexation to County.

349 (3) "Annexing area" means an area that is annexed into a county.

350 (4) "Governmental entity" means:

351 (a) the United States;

352 (b) the state;

353 (c) a county;

354 (d) a city;

355 (e) a town;

356 (f) a political subdivision of an entity described in Subsections (4)(b) through (e); or

357 (g) an agency, a department, a division, or other similar instrumentality of an entity
358 described in Subsections (4)(a) through (f).

359 (5) "Municipality" means a city or town.

360 (6) "Municipality's proportionate share" means a percentage of revenues described in
361 Subsection 59-12-1604(2)(b) or (3)(b) equal to the percentage that the population of a
362 municipality bears to the total population of the county in which the municipality is located.

363 (7) "Open land" means land that is:

364 (a) preserved predominantly in a natural, open, and undeveloped condition; and

365 (b) used for:

366 (i) wildlife habitat;

367 (ii) cultural or recreational use;
 368 (iii) watershed protection; or
 369 (iv) a use;
 370 (A) other than a use described in Subsections (7)(b)(i) through (iii); and
 371 (B) that is consistent with the preservation of the land in a predominantly natural, open,
 372 and undeveloped condition.
 373 (8) "Public land" means land that is owned by a governmental entity.
 374 (9) "Unexpended sales and use tax revenues" means any revenues:
 375 (a) generated by a tax under this part; and
 376 (b) that:
 377 (i) on the day on which a county legislative body repeals a tax under this part as
 378 required by Section 59-12-1607, the county legislative body has not:
 379 (A) expended for a purpose described in Subsection 59-12-1604(4)(a);
 380 (B) expended within the unincorporated areas of the county in accordance with
 381 Subsection 59-12-1604(4)(b)(ii)(A); or
 382 (C) distributed to a municipality in accordance with Subsection
 383 59-12-1604(4)(b)(ii)(B); and
 384 (ii) have not been retained by the commission in accordance with Subsection
 385 59-12-1603(4)(b).
 386 (10) "Unincorporated area's proportionate share" means a percentage of revenues
 387 described in Subsection 59-12-1604(2)(b) or (3)(b) equal to the percentage that the population
 388 of the unincorporated area of a county bears to the total population of the county.
 389 Section 4. Section **59-12-1603** is enacted to read:
 390 **59-12-1603. Imposition of tax -- Base -- Rate -- Opinion question election -- Use of**
 391 **tax revenues -- Administration, collection, and enforcement of tax by commission --**
 392 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**
 393 (1) (a) Beginning on or after July 1, 2005, and subject to the other provisions of this
 394 part, a county legislative body may impose a sales and use tax of .125%:
 395 (i) if 60% or less of the land within the county is public land;
 396 (ii) except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), on the transactions:
 397 (A) described in Subsection 59-12-103(1); and

398 (B) within the county, including the cities and towns within the county;
399 (iii) for the purposes described in Section 59-12-1604; and
400 (iv) in addition to any other sales and use tax authorized under this chapter.
401 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
402 tax under this section on the sales and uses described in Section 59-12-104 to the extent the
403 sales and uses are exempt from taxation under Section 59-12-104.
404 (c) For purposes of this Subsection (1), the location of a transaction shall be
405 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.
406 (2) (a) Before imposing a tax under this part, a county legislative body shall:
407 (i) obtain approval from a majority of the members of the county legislative body to
408 impose the tax; and
409 (ii) subject to Subsection (2)(b), submit an opinion question to the county's registered
410 voters voting on the imposition of the tax so that each registered voter has the opportunity to
411 express the registered voter's opinion on whether a tax should be imposed under this part.
412 (b) The election required by Subsection (2)(a)(ii) shall be held:
413 (i) (A) at a regular general election; and
414 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
415 governing regular general elections; or
416 (ii) (A) at a municipal general election; and
417 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
418 governing municipal general elections.
419 (3) Subject to the other provisions of this part, if a county legislative body determines
420 that a majority of the county's registered voters voting on the imposition of the tax have voted
421 in favor of the imposition of the tax in accordance with Subsection (2), the county legislative
422 body shall enact the tax:
423 (a) by a majority vote of all of the members of the county legislative body;
424 (b) by enacting an ordinance:
425 (i) imposing the tax;
426 (ii) (A) creating a fund to deposit the revenues generated by the tax; and
427 (B) providing procedures and requirements for the administration of the fund described
428 in Subsection (3)(b)(ii)(A); and

429 (iii) creating an advisory board in accordance with Section 59-12-1605 or 59-12-1606
430 to make findings and recommendations to the county legislative body; and
431 (c) in accordance with Subsection (5).
432 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the tax authorized under this part
433 shall be administered, collected, and enforced in accordance with:
434 (A) the same procedures used to administer, collect, and enforce the tax under:
435 (I) Part 1, Tax Collection; or
436 (II) Part 2, Local Sales and Use Tax Act; and
437 (B) Chapter 1, General Taxation Policies.
438 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
439 Subsections 59-12-205(2) through (9).
440 (b) (i) The commission may retain an amount of tax collected under this part of not to
441 exceed the lesser of:
442 (A) 1.5%; or
443 (B) an amount equal to the cost to the commission of administering this part.
444 (ii) Any amount the commission retains under Subsection (4)(b)(i) shall be:
445 (A) placed in the Sales and Use Tax Administrative Fees Account; and
446 (B) used as provided in Subsection 59-12-206(2).
447 (5) (a) (i) Except as provided in Subsection (5)(b) or (c), if, on or after July 1, 2005, a
448 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
449 (A) on the first day of a calendar quarter; and
450 (B) after a 90-day period beginning on the date the commission receives notice meeting
451 the requirements of Subsection (5)(a)(ii) from the county.
452 (ii) The notice described in Subsection (5)(a)(i)(B) shall state:
453 (A) that the county will enact or repeal a tax under this part;
454 (B) the statutory authority for the tax described in Subsection (5)(a)(ii)(A);
455 (C) the effective date of the tax described in Subsection (5)(a)(ii)(A); and
456 (D) if the county enacts the tax described in Subsection (5)(a)(ii)(A), the rate of the tax.
457 (b) (i) Notwithstanding Subsection (5)(a)(i), for a transaction described in Subsection
458 (5)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
459 (A) that begins after the effective date of the enactment of the tax; and

460 (B) if the billing period for the transaction begins before the effective date of the
461 enactment of the tax under Subsection (1).

462 (ii) Notwithstanding Subsection (5)(a)(i), for a transaction described in Subsection
463 (5)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

464 (A) that began before the effective date of the repeal of the tax; and

465 (B) if the billing period for the transaction begins before the effective date of the repeal
466 of the tax imposed under Subsection (1).

467 (iii) Subsections (5)(b)(i) and (ii) apply to transactions subject to a tax under:

468 (A) Subsection 59-12-103(1)(b);

469 (B) Subsection 59-12-103(1)(c);

470 (C) Subsection 59-12-103(1)(d);

471 (D) Subsection 59-12-103(1)(e);

472 (E) Subsection 59-12-103(1)(f);

473 (F) Subsection 59-12-103(1)(g);

474 (G) Subsection 59-12-103(1)(h);

475 (H) Subsection 59-12-103(1)(i);

476 (I) Subsection 59-12-103(1)(j); or

477 (J) Subsection 59-12-103(1)(k).

478 (c) (i) Notwithstanding Subsection (5)(a)(i), if a tax due under this chapter on a
479 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
480 enactment or repeal of a tax described in Subsection (5)(a)(i) takes effect:

481 (A) on the first day of a calendar quarter; and

482 (B) beginning 60 days after the effective date of the enactment or repeal under
483 Subsection (5)(a)(i).

484 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
485 the commission may by rule define the term "catalogue sale."

486 (d) (i) Except as provided in Subsection (5)(e) or (f), if, for an annexation that occurs
487 on or after July 1, 2005, the annexation will result in the enactment or repeal of a tax under this
488 part for an annexing area, the enactment or repeal shall take effect:

489 (A) on the first day of a calendar quarter; and

490 (B) after a 90-day period beginning on the date the commission receives notice meeting

491 the requirements of Subsection (5)(d)(ii) from the county that annexes the annexing area.

492 (ii) The notice described in Subsection (5)(d)(i)(B) shall state:

493 (A) that the annexation described in Subsection (5)(d)(i)(B) will result in an enactment

494 or repeal of a tax under this part for the annexing area;

495 (B) the statutory authority for the tax described in Subsection (5)(d)(ii)(A);

496 (C) the effective date of the tax described in Subsection (5)(d)(ii)(A); and

497 (D) if the county enacts the tax described in Subsection (5)(d)(ii)(A), the rate of the

498 tax.

499 (e) (i) Notwithstanding Subsection (5)(d)(i), for a transaction described in Subsection

500 (5)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

501 (A) that begins after the effective date of the enactment of the tax; and

502 (B) if the billing period for the transaction begins before the effective date of the

503 enactment of the tax under Subsection (1).

504 (ii) Notwithstanding Subsection (5)(d)(i), for a transaction described in Subsection

505 (5)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

506 (A) that began before the effective date of the repeal of the tax; and

507 (B) if the billing period for the transaction begins before the effective date of the repeal

508 of the tax imposed under Subsection (1).

509 (iii) Subsections (5)(e)(i) and (ii) apply to transactions subject to a tax under:

510 (A) Subsection 59-12-103(1)(b);

511 (B) Subsection 59-12-103(1)(c);

512 (C) Subsection 59-12-103(1)(d);

513 (D) Subsection 59-12-103(1)(e);

514 (E) Subsection 59-12-103(1)(f);

515 (F) Subsection 59-12-103(1)(g);

516 (G) Subsection 59-12-103(1)(h);

517 (H) Subsection 59-12-103(1)(i);

518 (I) Subsection 59-12-103(1)(j); or

519 (J) Subsection 59-12-103(1)(k).

520 (f) (i) Notwithstanding Subsection (5)(d)(i), if a tax due under this chapter on a

521 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

522 enactment or repeal of a tax described in Subsection (5)(d)(i) takes effect:

523 (A) on the first day of a calendar quarter; and

524 (B) beginning 60 days after the effective date of the enactment or repeal under
525 Subsection (5)(d)(i).

526 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
527 the commission may by rule define the term "catalogue sale."

528 Section 5. Section **59-12-1604** is enacted to read:

529 **59-12-1604. Allocation, distribution, and expenditure of tax revenues.**

530 (1) After the commission subtracts the amount described in Subsection
531 59-12-1603(4)(b), the remaining revenues generated by a tax under this part shall be:

532 (a) transmitted:

533 (i) by the commission;

534 (ii) to the county legislative body imposing the tax;

535 (iii) monthly; and

536 (iv) by electronic funds transfer; and

537 (b) allocated, distributed, and expended as provided in this section.

538 (2) A county legislative body of a county of the first or second class that imposes a tax
539 under this part shall:

540 (a) expend 50% of the amounts distributed to the county legislative body under
541 Subsection (1) as provided in Subsection (4)(a); and

542 (b) allocate or distribute 50% of the revenues distributed to the county legislative body
543 under Subsection (1) as provided in Subsection (4)(b).

544 (3) A county legislative body of a county of the third, fourth, fifth, or sixth class that
545 imposes a tax under this part shall:

546 (a) expend 90% of the revenues distributed to the county legislative body under
547 Subsection (1) as provided in Subsection (4)(a); and

548 (b) allocate or distribute 10% of the revenues distributed to the county legislative body
549 under Subsection (1) as provided in Subsection (4)(b).

550 (4) (a) Except as provided in Subsections (5) through (7), a county legislative body
551 shall expend the revenues described in Subsection (2)(a) or (3)(a):

552 (i) to establish conservation easements as provided in Title 57, Chapter 18, Land

553 Conservation Easement Act, to protect agricultural land;
554 (ii) for watershed protection;
555 (iii) for per diem and expenses for members of a county board as provided in Section
556 59-12-1605 or 59-12-1606; or
557 (iv) for a combination of the purposes described in Subsections (4)(a)(i) through (iii).
558 (b) (i) Except as provided in Subsections (5) through (7), the revenues described in
559 Subsection (2)(b) or (3)(b) shall be allocated, distributed, and expended in accordance with this
560 Subsection (4)(b).
561 (ii) A county legislative body imposing a tax under this part shall:
562 (A) allocate the unincorporated area's proportionate share of the revenues described in
563 Subsection (2)(b) or (3)(b) to be expended by the county as provided in Subsection (4)(b)(iii)
564 within the unincorporated areas of the county; and
565 (B) distribute to each municipality within the county the municipality's proportionate
566 share of the revenues described in Subsection (2)(b) or (3)(b) to be expended by the
567 municipality as provided in Subsection (4)(b)(iii).
568 (iii) The revenues described in Subsection (2)(b) or (3)(b) shall be expended as
569 follows:
570 (A) the first priority for expending the revenues described in Subsection (2)(b) or (3)(b)
571 is watershed protection;
572 (B) the second priority for expending the revenues described in Subsection (2)(b) or
573 (3)(b) is:
574 (I) to establish conservation easements as provided in Title 57, Chapter 18, Land
575 Conservation Easement Act, to protect open land; or
576 (II) for another use consistent with the preservation of open land in a predominantly
577 natural, open, and undeveloped condition; and
578 (C) the revenues described in Subsection (2)(b) or (3)(b) may be expended for a
579 combination of the priorities described in Subsections (4)(b)(iii)(A) and (B).
580 (5) (a) Notwithstanding Subsection (4) and except as provided in Subsection (5)(b), a
581 county or municipality may not expend any revenues generated by a tax under this part to
582 purchase a fee interest in real property to protect open land.
583 (b) Notwithstanding Subsection (5)(a) and subject to Subsections (5)(c) and (d), a

584 county, city, or town, may expend revenues generated by a tax under this part to purchase a fee
585 interest in real property to protect open land if:

586 (i) the parcel to be purchased is not more than ten acres in size; and

587 (ii) real property that is roughly equivalent in size to the real property with respect to

588 which a fee interest is purchased is transferred to private ownership:

589 (A) within 30 days after the day on which the fee interest in real property is purchased;

590 and

591 (B) from the county, city, or town that purchases the fee interest in real property.

592 (c) Eminent domain may not be used or threatened in connection with any purchase

593 under this Subsection (5).

594 (d) A parcel of real property larger than ten acres in size may not be divided into

595 separate parcels that are smaller than ten acres each to meet the requirements of Subsection

596 (5)(b).

597 (6) Notwithstanding Subsection (4), a county may not:

598 (a) expend any revenues generated by a tax under this part to pay:

599 (i) debt service on a bond or bond anticipation note; or

600 (ii) for a cost related to the authorization or issuance of a bond or bond anticipation

601 note, including:

602 (A) an engineering fee;

603 (B) a legal fee;

604 (C) a fiscal advisor's fee;

605 (D) interest that accrues on a bond or bond anticipation note; or

606 (E) a cost similar to a cost described in Subsections (6)(a)(ii)(A) through (D); or

607 (b) pledge any revenues generated by a tax under this part as a source of payment for a

608 bond or bond anticipation note.

609 (7) Notwithstanding Subsection (4), a county, city, or town may expend revenues

610 generated by a tax under this part within a county, city, or town that is located outside of the

611 county, city, or town expending the revenues if the county, city, or town receiving the revenues

612 agrees to the expenditure.

613 Section 6. Section **59-12-1605** is enacted to read:

614 **59-12-1605. Advisory boards for counties of the first or second class.**

615 (1) The county legislative body of a county of the first or second class imposing a tax
616 under this part shall, in accordance with Section 59-12-1603, enact an ordinance establishing
617 an advisory board to make findings and recommendations to the county legislative body on
618 expending the revenues described in Subsection 59-12-1604(2)(a) in accordance with
619 Subsection 59-12-1604(4)(a).

620 (2) (a) Subject to Subsection (2)(b), the advisory board required by Subsection (1) shall
621 consist of 11 members appointed by the county legislative body imposing a tax under this part
622 as follows:

623 (i) three members shall be:

624 (A) members of the:

625 (I) county legislative body; or

626 (II) county executive body;

627 (B) the county executive; or

628 (C) a combination of the persons described in Subsections (2)(a)(i)(A) and (B);

629 (ii) three members shall be:

630 (A) mayors of a municipality located within the county;

631 (B) members of a municipal legislative body of a municipality located within the
632 county; or

633 (C) a combination of the persons described in Subsections (2)(a)(ii)(A) and (B);

634 (iii) two members shall represent agricultural interests as determined by the county
635 legislative body;

636 (iv) one member shall represent real estate interests as determined by the county
637 legislative body;

638 (v) one member shall be a builder as determined by the county legislative body; and

639 (vi) one member shall represent conservation interests as determined by the county
640 legislative body.

641 (b) A county legislative body shall select the members described in Subsections
642 (2)(a)(iii) through (vi) from names submitted as follows:

643 (i) (A) each of the local soil conservation districts created by Title 17A, Chapter 3, Part
644 8, Soil Conservation Districts, that are located within the county shall submit four or more
645 names to the county legislative body; and

646 (B) other agricultural organizations that are located within the county may submit one
647 or more names to the county legislative body;

648 (ii) (A) the local board of real estate agents representing the county shall submit two or
649 more names to the county legislative body; and

650 (B) other organizations representing real estate interests may submit one or more
651 names to the county legislative body;

652 (iii) (A) the local Home Builders Association representing the county shall submit two
653 or more names to the county legislative body; and

654 (B) other organizations representing home building interests may submit one or more
655 names to the county legislative body; and

656 (iv) organizations representing conservation interests may submit one or more names
657 to the county legislative body.

658 (3) The ordinance required by Section 59-12-1603 establishing the advisory board
659 shall:

660 (a) provide for the terms of the members;

661 (b) provide for the method of appointing members to the advisory board;

662 (c) provide a procedure for filling vacancies and removing members from office;

663 (d) provide for the appointment of a chair of the advisory board; and

664 (e) contain other provisions relating to the organization and procedure of the advisory
665 board.

666 (4) (a) A member of an advisory board who is not an employee of a governmental
667 entity may not receive compensation for the member's work associated with the advisory board,
668 but may receive per diem and reimbursement for travel expenses incurred as a member of the
669 advisory board at the rates established by the Division of Finance under Sections 63A-3-106
670 and 63A-3-107.

671 (b) A member of an advisory board who is an employee of a governmental entity who
672 does not receive salary, per diem, or expenses from the governmental entity for their work
673 associated with the advisory board may receive per diem and reimbursement for travel
674 expenses incurred as a member of the advisory board at the rates established by the Division of
675 Finance under Sections 63A-3-106 and 63A-3-107.

676 (c) A member of an advisory board may decline to receive per diem and expenses for

677 their work associated with the advisory board.

678 Section 7. Section **59-12-1606** is enacted to read:

679 **59-12-1606. Advisory boards for counties of the third, fourth, fifth, or sixth class.**

680 (1) The county legislative body of a county of the third, fourth, fifth, or sixth class
681 imposing a tax under this part shall, in accordance with Section 59-12-1603, enact an ordinance
682 establishing an advisory board to make findings and recommendations to the county legislative
683 body on expending the revenues described in Subsection 59-12-1604(3)(a) in accordance with
684 Subsection 59-12-1604(4)(a).

685 (2) (a) Subject to Subsection (2)(b), the advisory board required by Subsection (1) shall
686 consist of seven members appointed by the county legislative body imposing a tax under this
687 part as follows:

688 (i) five members shall represent agricultural interests as determined by the county
689 legislative body;

690 (ii) one member shall be a:

691 (A) mayor of a city or town located within the county; or

692 (B) member of a municipal legislative body of a municipality located within the
693 county; and

694 (iii) one member shall be:

695 (A) a member of the:

696 (I) county legislative body; or

697 (II) county executive body; or

698 (B) the county executive.

699 (b) A county legislative body shall select the members described in Subsection (2)(a)(i)
700 from names submitted as follows:

701 (i) each of the local soil conservation districts created by Title 17A, Chapter 3, Part 8,
702 Soil Conservation Districts, that are located within the county shall submit ten or more names
703 to the county legislative body; and

704 (ii) other agricultural organizations that are located within the county may submit one
705 or more names to the county legislative body.

706 (3) The ordinance required by Section 59-12-1603 establishing the advisory board
707 shall:

- 708 (a) provide for the terms of the members;
- 709 (b) provide for the method of appointing members to the advisory board;
- 710 (c) provide a procedure for filling vacancies and removing members from office;
- 711 (d) provide for the appointment of a chair of the advisory board; and
- 712 (e) contain other provisions relating to the organization and procedure of the advisory
- 713 board.

714 (4) (a) A member of an advisory board who is not an employee of a governmental
715 entity may not receive compensation for the member's work associated with the advisory board,
716 but may receive per diem and reimbursement for travel expenses incurred as a member of the
717 advisory board at the rates established by the Division of Finance under Sections 63A-3-106
718 and 63A-3-107.

719 (b) A member of an advisory board who is an employee of a governmental entity who
720 does not receive salary, per diem, or expenses from the governmental entity for their work
721 associated with the advisory board may receive per diem and reimbursement for travel
722 expenses incurred as a member of the advisory board at the rates established by the Division of
723 Finance under Sections 63A-3-106 and 63A-3-107.

724 (c) A member of an advisory board may decline to receive per diem and expenses for
725 their work associated with the advisory board.

726 Section 8. Section **59-12-1607** is enacted to read:

727 **59-12-1607. Repeal of tax -- Treatment of unexpended sales and use tax revenues**
728 **as ad valorem property tax revenues.**

729 (1) If, at any time after the day on which a county legislative body imposes a tax under
730 this part, the county does not expend any of the revenues generated by the tax for a purpose
731 described in Subsection 59-12-1604(4)(a) for a three consecutive year period, the county
732 legislative body shall:

733 (a) repeal the tax in accordance with Subsection 59-12-1603(5); and

734 (b) provide notice to the commission of the repeal:

735 (i) no later than 30 days after the expiration of the three consecutive year period; and

736 (ii) in accordance with Subsection 59-12-1603(5).

737 (2) For one or more calendar years after a county legislative body repeals a tax under
738 this part as required by Subsection (1), the commission shall adjust the county's certified tax

739 rate to include any unexpended sales and use tax revenues as ad valorem property tax revenues
740 in accordance with Section 59-2-924.

741 Section 9. Section **59-12-1608** is enacted to read:

742 **59-12-1608. Seller or certified service provider reliance on commission**
743 **information or certain systems.**

744 A seller or certified service provider is not liable for failing to collect and remit a tax at
745 a tax rate imposed under this part if:

746 (1) the tax rate at which the seller or certified service provider collected the tax was
747 derived from a database created by the commission containing:

748 (a) tax rates; or

749 (b) local taxing jurisdiction boundaries;

750 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
751 provider's reliance on incorrect data provided by the commission in the taxability matrix
752 required by Section 328 of the agreement;

753 (3) for a model 2 seller, the failure to collect and remit the tax:

754 (a) is due to an error in the certified automated system used by the model 2 seller; and

755 (b) occurs prior to an audit of the certified automated system that reveals the error in
756 the certified automated system; or

757 (4) for a model 3 seller, the failure to collect and remit the tax:

758 (a) is due to an error in the proprietary system used by the model 3 seller; and

759 (b) occurs prior to an audit of the proprietary system that reveals the error in the
760 proprietary system.